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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/757,901

01/10/2001

Reiner Kraft

IBMI-05-053A

8326

36872

7590

09/22/2006

THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
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EXAMINER

LAstra, DANIEL

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,901

Applicant(s)

KRAFT ET AL.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 31-45 have been examined. Application 09/757,901 (PERSONALIZED PROFILE BASED ADVERTISING SYSTEM AND METHOD WITH INTEGRATION OF PHYSICAL LOCATION USING GPS) has a filing date 01/10/01.

Response to Amendment

2. In response to Final Rejection filed 04/17/2006, the Applicant filed an RCE, which amended claims 31, 32, 35, 37-43 and added new claims 46-50.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31, 35, 38 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said claims recite "generating a personalized advertisement comprises a map of inner aisle layout of the sales location in response to the at least one item being not present within the sales location". Said limitation is indefinite because it is not clear to what sales location the inner layout map refers to and also is not clear about the meaning of displaying a map of an inner layout of the sales location when a product is not present. Also, said limitation is not clear is the item being not present is not present in the user profile or in the sales location or in both places. For purpose of art rejection, said limitation would be interpreted as displaying a map for the location of a promotional product in response to at least one

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item being identified within the user profile data being not present within the sales location.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31, 32, 35-39, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dowling (US 6,522,875) in view of Ogasawara (US 6,123,259).

As per claims 31, 35, 38 and 42, Dowling teaches:

A method for personalized profile based advertising associated with a network of hub processing units coupled to a plurality of mobile information processing units over the network, the method of personalized profile based advertising on one of the hub processing units comprising:

receiving location data and user profile data from at least one mobile information processing unit (see column 14, line 57 – col 15, line 10);

determining *whether* at least one item *is present* inside a sales location, the at least one item being identified within the user profile data (see column 14, line 57 – col 15, line 10);

generating a personalized advertisement, *comprising a map based upon the location data as well as the user profile data associated with the mobile information processing unit wherein the map comprises* directional information to an inner position

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within the sales location of the at least one item in response to the at least one item being present inside the sales location (see col 14, line 57 – col 15, line 10).

forwarding the personalized advertisement to the mobile information processing unit for display (see column 14, line 57 – col 15, line 7).

Dowling does not expressly teach the map *comprises* an inner aisle layout of the sales location in response to the at least one item being identified within the user profile data being not present within the sales location. However, Ogasawara teaches mobile terminals or servers preloaded with topographical store layout file in order to display to users of said mobile terminals an inside map of a sale location (see Ogasawara col 9, lines 35-45). Ogasawara also teaches a system that displays to users promotional items in the same manner as recommended replenishment items and is further able to provide the customer with the location and direction of such promotional items (see Ogasawara col 16, lines 1-10). Ogasawara does not expressly teach displaying a map in response to at least one item being identified within the user profile data being not present within the sales location. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Ogasawara's stores locations would send promotions to customers about products on sale with the corresponding sales location's inner aisle layout when said products on sale are not identified in the customers' profiles in order that the recommendation of such products to said customers would ensure that said customers would not miss out on the savings offered by said sale locations. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dowling's

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mobile terminals would maintain a topographical sales location layout file, as the one taught by Ogasawara that would display to mobile terminals' customers an inner aisle layout map of a sales location (i.e. inside map of a mall¹) in response to at least one item identify in the customers' profile data being not present within the sales location in view that said displaying of a sales location inner aisle layout to said customers would make said customers aware of the location of others products on sale in said sales location that were not identified in said users' profile data. Therefore, ensuring that said customers would not miss out on the savings offered by said sale locations.

As per claims 32, 37, 39 and 43, Dowling teaches:

The method as defined in claim 31, wherein *at least one of* the mobile information processing units comprises *a mobile phone* (see col 1, lines 25-35; col 6, lines 50-60).

As per claim 36, Dowling teaches:

The method as defined in claim 35, wherein in response to the mobile information processing system being outside the sales location forwarding to the mobile information processing system for display thereon, a directional map to the sales location which includes a personalized advertisement based upon the location data as well as the user profile data associated with the mobile information processing unit (see col 14, line 57 – col 15, line 5; col 19, lines 5-15).

As per claims 46 and 48-50, Dowling teaches:

¹ Dowling col 15, lines 1-10

The method as defined in claim 31, wherein at least one of the mobile information processing units comprises a personal data or digital assistance (see col 17, lines 60-65).

As per claim 47, Dowling teaches:

The method as defined in claim 31, wherein at least one of the mobile information processing units comprises a car computer system (see figure 1, item 105).

5. Claims 33, 34, 40, 41, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dowling (US 6,522,875) in view of Ogasawara (US 6,123,259) and further in view of Kelly (US 6,498,987).

As per claims 33, 34, 40, 41, 44 and 45, Dowling fails to teach:

The method as defined in claim 31, wherein generating an advertisement further comprises: adding at least part of the user profile data to the advertisement for display on the mobile information processing unit which includes adding profile data selected from a group of profile data consisting of a name, interest, age, background, education, hobbies and other personalized data relating to a user. However, Kelly teaches a system that adds part of the user profile data to personal advertisements delivered to mobile users (see Kelly column 5, lines 60-65; column 10, lines 10-20; figure 5). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dowling and Ogasawara would add part of the user profile, such as the user's name, to the advertisements targeted to the user, as taught by Kelly. This feature would increase the probability that the advertisements targeted to a user would not go wasted, as the advertisements would include user's

personalized information, which would increase the probability that the advertisements would grasp the attention of the user.

Response to Arguments

6. Applicant's argument filed in 07/10/2006 has been fully considered but it has not been persuasive. The Applicant argues the reference cited do not teach displaying a map of an inner aisle layout of a sales location in response to at least one item being identified within the user profile data being not present within the sales location. The Examiner answers that Ogasawara teaches mobile terminals or servers preloaded with topographical store layout file in order to display to users of said mobile terminals an inside map of a sale location (see Ogasawara col 9, lines 35-45). Ogasawara also teaches a system that displays to users promotional items in the same manner as recommended replenishment items and is further able to provide the customer with the location and direction of such promotional items (see Ogasawara col 16, lines 1-10). Ogasawara does not expressly teach displaying a map in response to at least one item being identified within the user profile data being not present within the sales location. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Ogasawara's stores locations would send promotions to customers about products on sale with the corresponding sales location's inner aisle layout when said products on sale are not identified in the customers' profiles data in order that the recommendation of such products to said customers would ensure that said customers would not miss out on the savings offered by said sale locations. Therefore, it would have been obvious to a person of ordinary skill in the art at the time

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the application was made, to know that Dowling's mobile terminals would maintain a topographical sales location layout file, as the one taught by Ogasawara that would display to mobile terminals' customers an inner aisle layout map of a sales location (i.e. inside map of a mall²) in response to at least one item identify in the customers' profile data being not present within the sales location in view that said displaying of a sales location inner aisle layout to said customers would make said customers aware of the location of others products on sale in said sales location that were not identified in said users' profile data. Therefore, ensuring that said customers would not miss out on the savings offered by said sale locations.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.


² Dowling col 15, lines 1-10

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
September 6, 2006


RAQUEL ALVAREZ
PRIMARY EXAMINER